BEUC The European Consumer Organisation

The Consumer Voice in Europe

European Commission
Directorate-General for Competition
State aid registry
Ref.: HT.582

B-1049 Brussels

Our ref.: BEUC-L-2020-066/MDV/rs
Your ref.: HT.582

10 March 2020

Re: BEUC response to the European Commission's public consultation on draft ETS State aid Guidelines

Dear Sir or Madam,

BEUC, the European Consumer Organisation, welcomes the opportunity to comment on the European Commission proposal for revised *Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post 2021* (the ETS Guidelines).

To succeed in tackling the climate emergency, we need to make systemic changes in the way how we produce and consume, how we live, eat and move around. We need policies that are effective, designed and implemented in a consumer centric way and avoid carbon leakage. We need to ensure the costs of the energy transition are shared in a fair way with the industry in order, on the one hand, to prevent that consumers have to bear all the burden of this transition and, on the other hand, to get the buy-in of large parts of the European population. Setting the right rules and conditions to grant state aid is particularly important, because ultimately this support is paid for by taxpayers, who need to know that their taxes are only invested in those projects that deliver clear benefits to society.

For this reason, BEUC generally supports the European Commission's proposals for the revised ETS Guidelines. Below we highlight some of the most important points from the consumer perspective:

- **Reduction of aid intensity and sectors eligible for state aid**

BEUC applauds the European Commission for the proposed reduction of sectors that are eligible for state aid from 14 to 8. State aid should be allowed only in those sectors deemed to be exposed to a genuine risk of carbon leakage due to indirect emission costs. The current criteria for state aid approval – indirect emission intensity and exposure to trade - and the level at which the intensities were set, are too general. Not every undertaking that currently benefits from state aid is likely to move to a third country if they were no longer eligible for state aid. Neither is every beneficiary threatened to be priced-out of the market if carbon prices increase. They might compensate through high product quality, productivity, price elasticity of demand, high specialisation for niche-market production or exclusive patents. Therefore, the European Commission should consider strengthening the current eligibility criteria to take into account the plausibility of undertakings being priced-out or moving to third countries in order to better target state aid to those who really need it.

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At the same time, BEUC supports the proposed reduction of aid intensity, i.e. the maximum share of indirect ETS costs that Member States can compensate, from 85% to 75% in line with the third ETS trading period. The energy transition is a societal challenge that should not only be paid for by private consumers. Furthermore, companies benefiting from state aid have a shared responsibility towards the society and consumers to ensure that the support they get from taxpayers truly leads to reduction of emissions.

- **Obligation for companies to step up their decarbonisation efforts**

BEUC welcomes the proposed strengthening of the conditionality of the compensation of indirect ETS costs. However, there should be an explicit obligation to use state aid received for indirect compensation costs towards decarbonisation efforts. Beneficiaries of state aid need to demonstrate a real commitment to reduce their greenhouse gas emissions and increase their energy efficiency performance. Therefore, we support the requirement that beneficiaries, irrespective of their size, have to conduct an energy audit or have an energy or environmental management system in place. In this respect, state aid should be strictly used to trigger additional investments. This is particularly important to consider in countries, where energy audits and the implementation of the main recommendations are already mandatory (i.e. Additionality principle).

Simultaneously, we support strong Member States' monitoring and verification of whether beneficiaries fully comply with conditions set in paragraph 54, i.e. whether they conduct an energy audit, comply with audit's recommendations or reduce the carbon footprint of their electricity consumption or invest a significant share of the aid amount in projects that reduce their greenhouse gas emissions.

At the same time, we believe that some of the criteria in paragraph 54 should be strengthened. For instance, according to this paragraph, the state aid beneficiaries should implement the audit recommendations if the payback time for the relevant investment does not exceed 5 years. Considering that households are often expected to deal with longer payback times (e.g. when exchanging their heating systems or renovating their house), state aid beneficiaries have surely the capacity to make long-term investments. Similarly, paragraph 54c is rather vague in terms of projects that undertakings should invest into. State aid beneficiaries should be obliged to prioritise investments into renewables and energy efficiency (i.e. Energy efficiency first principle).

- **Need for better reporting and monitoring**

Thorough monitoring and reporting are crucial parts of the state aid system. Without solid data, it is impossible to verify the effectiveness of state aid measures. Member States should systematically gather and report data on state aid beneficiaries who shut down production sites and move their business outside the EU despite receiving subsidies. As carbon leakage is the underlying reason for state aid, it is necessary to monitor such leakages. We should avoid situations in which a company uses state aid to artificially keep their operations despite not being a serious competitor in the market, as seen in the Duferco case.[1]

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[1] Commissioner Vestager's statement from 20 January 2016 on the state-aid case of Duferco group: "Despite the illegal state aid to Duferco the company has now withdrawn almost all business activities from Belgium. The case shows that state aid to artificially keep steel manufacturers afloat that are not viable seriously distorts competition and only delays their exit from the market at the cost of taxpayers." https://ec.europa.eu/commission/presscorner/detail/en/IP_16_113

- **Carbon Border Adjustment Mechanism**

The European Commission is expected to propose a carbon border adjustment mechanism, for selected sectors, to reduce the risk of carbon leakage. We support and urge the Commission to take its pledge seriously that such an adjustment mechanism would need to replace existing measures that address the risk of carbon leakage[2]. There should be no double subsidisation of undertakings at the expense of consumers or taxpayers. We therefore suggest undertaking a broad mapping exercise in order to identify existing direct and indirect "carbon reduction support systems" on a Member State level in order to prevent over-subsidisation of undertakings.

We trust that you will take consumer interests into account. We remain at your disposal for any follow-up questions.

Yours sincerely,

Monika De Volder
Senior Economic Officer
Team Leader Energy

Agustin Reyna
Head of Legal and Economic Affairs

[2] Such as the free allocation of emission allowances or compensation for the increase in electricity costs (cf. European Green Deal, p.5 - https://ec.europa.eu/info/publications/communication-european-green-deal_en)